

Regular Session, 2010

HOUSE BILL NO. 803

BY REPRESENTATIVE TIM BURNS

MORTGAGES: Provides relative to bond for deed contracts

1 AN ACT

2 To amend and reenact R.S. 9:2941 and 2941.1(A), relative to bond for deed contracts; to
3 provide for definitions; to provide relative to recordation and priority; and to provide
4 for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:2941 and 2941.1(A) are hereby amended and reenacted to read as
7 follows:

8 §2941. "Bond for deed" defined

9 A bond for deed is a contract to sell real property, in which the purchase price
10 is to be paid by the buyer to the seller in installments and in which the seller after
11 payment of a stipulated sum agrees to deliver title to the buyer. A bond for deed may
12 include but is not limited to a contract for sale, an installment sales contract, an
13 option or memorandum of option, an escrow agreement or agreement to purchase or
14 sell under Louisiana escrow agreement, or any agreement, the intent of which is the
15 transfer of title by the seller to a purchaser at a future date.

16 §2941.1. Recordation; subsequent filings; interest prohibited; cancellation of
17 mortgage records

18 A. Upon the recordation in the mortgage and conveyance records of a bond
19 for deed contract as defined in R.S. 9:2941, any sale, contract, ~~counter letter~~
20 counterletter, lease, or ~~conventional or collateral~~ mortgage executed by the bond for

1 deed seller, and no any lien, privilege, or judgment relating to or purporting to affect
2 immovable property that has not been filed previously for registry or recorded in the
3 mortgage records shall be subject to the rights created by the bond for deed contract.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Tim Burns

HB No. 803

Abstract: Provides examples of bond for deed contracts and makes any lien, privilege, or judgment filed after the bond for deed contract subject to the rights created by the bond for deed contract.

Present law defines a bond for deed as a contract to sell real property, in which the purchase price is to be paid by the buyer to the seller in installments and in which the seller, after payment of a stipulated sum, agrees to deliver title to the buyer.

Proposed law retains present law and provides that a bond for deed may include but is not limited to a contract for sale, an installment sales contract, an option or memorandum of option, an escrow agreement or agreement to purchase or sell under La. escrow agreement, or any agreement, the intent of which is the transfer of title by the seller to a purchaser at a future date.

Present law provides that upon the recordation in the mortgage and conveyance records of a bond for deed contract, any sale, contract, counterletter, lease, or conventional or collateral mortgage executed by the bond for deed seller shall be subject to the rights created by the bond for deed contract. Further provides that no lien, privilege, or judgment relating to or purporting to affect immovable property that has not been filed previously for registry or recorded in the mortgage records shall be subject to the rights created by the bond for deed contract.

Present law provides that following registry of the bond for deed contract, any instrument that was filed in the mortgage records after the filing of the bond for deed contract shall be cancelled by the clerk of court upon request by affidavit of any interested party, but only insofar as it affects the property described in the bond for deed and subsequent sale, after the noteholder or lienholder has been given 30 days written notice and fails to execute a release.

Proposed law retains present law, except that the reference to conventional or collateral mortgages is changed to apply to any mortgage, and proposed law provides that any lien, privilege, or judgment relating to or purporting to affect immovable property that has not been filed prior to the bond for deed contract shall be subject to the rights created by the bond for deed contract.

(Amends R.S. 9:2941 and 2941.1(A))